IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.969 OF 1999

Garden Finance Limited ...Petitioners

Versus

Nikumbh Dairy Products Limited ...Respondents

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Mr.Suraj Juneja i/b M/s.Wadia Ghandy & Co.
for Petitioners.
None for Respondents.

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CORAM: A.M.KHANWILKAR, J.

SEPTEMBER 26, 2005.

P.C.

1. Heard Counsel for the Petitioners. None appears for the Respondents though served. No reply has been filed to oppose this Petition. From the assertions made in the Petition, it is seen that the claim of the Petitioners is founded on Bill of Exchange. The outstanding amount payable to the Petitioners is in the sum of Rs.11,83,858/- (Rupees Eleven Lakhs Eighty-three Thousand Eight Hundred Fifty-Eight). The Petitioners are the

payee and the Respondent Company are the drawees. Inspite of statutory notice, the outstanding amount was neither paid nor any reply was sent on behalf of the Respondents. In that view of the matter, the legal presumption against the Respondent Company that it is unable to pay its debt has remained unrebutted. As no amount was received by the Petitioners, eventually present Petition came to be filed.

2. As mentioned earlier, the Respondents have been duly served. Inspite of service, none appears for the Respondents nor any reply is filed controverting the assertions made in the Petition.

3. Accordingly, it necessarily follows that the legal presumption against the Respondent Company that it is unable to pay its debt has remained unrebutted. If it is so, this Court has no option but to allow the Petition in terms of prayer clauses (a) and (b). Ordered accordingly.

A.M.KHANWILKAR, J.